

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

VERINATA HEALTH, INC., et al.,

Plaintiffs,

v.

ARIOSIA DIAGNOSTICS, INC, et al.,

Defendants.

Case No. [12-cv-05501-SI](#)

**ORDER RE: DISCOVERY**

Re: Dkt. No. 374

Before the Court is a joint discovery letter from the parties. Dkt. No. 374. Ariosa seeks an order compelling a second deposition of Dr. Fan, a former Illumina scientist who resides in Hong Kong. *See id.* On April 11, 2017, Ariosa deposed Dr. Fan in Redwood Shores, California (the “April 11 deposition”).<sup>1</sup> Based on the parties’ statements and excerpts of the transcript, the April 11 deposition appears to have been somewhat contentious (at least as between counsel). At no time during the deposition did either party contact the Court to resolve any issues.

Ariosa asks the Court to order plaintiffs to produce Dr. Fan for an additional four hours of deposition testimony at plaintiff’s expense, based on plaintiff’s counsel’s purportedly obstructive conduct and witness coaching during the April 11 deposition. Dr. Fan is a named inventor on the ’794 patent, and “was designated by Plaintiffs as their Rule 30(b)(6) witness concerning conception and reduction to practice of that patent.” Joint Statement (Dkt. No. 374) at 1. During the April 11 deposition, plaintiffs’ counsel repeatedly objected to certain lines of questioning including, but not limited to, defense counsel’s requests for Dr. Fan to compare an Ariosa product schematic to the claims of the ’794 patent.

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<sup>1</sup> In response to another recent discovery dispute, the Court ordered that Dr. Fan be deposed in-person in California, rather than in Hong Kong or remotely via video conference. *See* Dkt. Nos. 341, 345.

1           The Court has reviewed the transcript provided and counsels' letter. Without determining  
2 who is the more "hard-edged" of the counsel doing the questioning, it appears that frustration and  
3 irritation was mutual and freely expressed. Under all the circumstances presented, the Court does  
4 not find that it would be appropriate to order additional deposition testimony of Dr. Fan at this  
5 time. Accordingly, the Court will not compel Illumina to produce Dr. Fan for additional  
6 testimony.

7           This order resolves Dkt. No. 374.

8           **IT IS SO ORDERED.**

9           Dated: May 16, 2017



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SUSAN ILLSTON  
United States District Judge